



COMMONWEALTH OF KENTUCKY  
ETHICS COMMITTEE OF THE KENTUCKY JUDICIARY  
STATE CAPITOL

ROBERT W. DYCHE, III  
COURT OF APPEALS

700 CAPITAL AVENUE, SUITE 200  
FRANKFORT, KENTUCKY 40601-3489

PETER C. MACDONALD  
DISTRICT COURT

JAMES L. BOWLING  
CIRCUIT COURT

B. M. WESTBERRY, CHAIRMAN  
ATTORNEY

UHEL O. BARRICKMAN  
ATTORNEY

**ORDER REVERSING**  
**JUDICIAL ETHICS OPINION JE-96**

**June 26, 2002**

Question: Where a judge is sued in his official capacity as executive head of an administrative body, and he hires outside counsel to represent him, is the judge disqualified from any other cases brought before him by that attorney or the attorney's law firm?

Answer: No. There is no automatic, mandatory disqualification. The fact of representation, however, must be disclosed on the record.

Question: Where a judge is sued in his official capacity as executive head of an administrative body, and in conjunction with other parties, and the defenses are the same, is the judge disqualified from litigation brought before him by the other parties' attorneys and those attorneys' law firms?

Answer: No. As above, there is no automatic, mandatory disqualification. The fact of representation, however, must be disclosed on the record.

The question presented was whether a judge sued in his official capacity as executive head of an administrative body was disqualified from all cases brought before him by the attorney and the law firm hired by the judge to represent him. A narrow majority of the Committee distinguished this case from Judicial Ethics Opinion JE-84 where a judge was involved personally in litigation. The appearance of bias and prejudice is not the same and disqualification is not required. The fact of representation, however, must be disclosed on the record so that opposing parties may voice an objection.

A narrow majority of the Committee also agreed that a judge was not disqualified where other parties sued with him were represented by counsel and law firms who also routinely appeared before the judge. A narrow majority of the Committee believed that here the

appearance of bias and prejudice was lacking. The fact of representation must be disclosed on the record, however, so that opposing parties may voice an objection if they so desire.

*for* *Jan Corri*  
Uhel O. Barrickman  
Acting Chairman  
The Ethics Committee of the  
Kentucky Judiciary